

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

*Mr. Feldman
PLI 14606*
[Protest Against Nonresponsibility Determination]

FILE: B-198665

DATE: August 13, 1980

MATTER OF: Allied Carpetmaster, Inc.

DLG05091

DIGEST:

Where procuring agency finds small business concern is not responsible, SBA's determination concerning denial of Certificate of Competency will not be reviewed by GAO except in circumstances not present here. By law, SBA has conclusive authority to determine all matters of small business firm's responsibility.

Allied Carpetmaster, Inc. (Allied) protests the contracting officer's determination that the firm was not responsible under General Services Administration (GSA) solicitation No. GSD-6DPR-00015. The solicitation was issued by GSA's Region 6 as a total small business set-aside for carpet cleaning and related services at specified service areas in the region. We dismiss the protest.

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AGC 00017*

Allied was found nonresponsive because it had no facilities of its own and because it had no sub-contract commitments for the performance of the contract. It was the firm's intention to select a subcontractor after award. In addition, the firm did not respond to GSA's request for adequate financial data. The matter was referred to the Small Business Administration (SBA) pursuant to Federal Procurement Regulations (FPR) 1-1.708 (1964 ed.) so that SBA could consider the issuance of a Certificate of Competency (COC). SBA declined to issue a COC because Allied was not eligible for one under SBA regulations which provide that:

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"A small business concern shall not be eligible for a COC unless it performs a significant portion of the contract with its own facilities and personnel * * *." 13 C.F.R. § 125.5(f) (1980).

When a contracting officer determines that a small business bidder is nonresponsible, the law requires that the contracting officer refer the matter to the SBA which has conclusive authority to determine all elements of responsibility. 15 U.S.C. 637(7) (Supp. I 1977). Our Office generally will not review SBA determinations in this respect unless the protester has made a prima facie showing of fraud or willful disregard of the facts. SMI/New York; Sweepster, Inc., B-194009, July 24, 1979, 79-2 CPD 55. No such showing has been made here. SBA declined to issue the COC because its regulation mandated that result. See Hacking Labs, B-197777, April 21, 1980, 80-1 CPD 280.

The protest is dismissed.

for *Harry R. Van Cleave*
Milton J. Socolar
General Counsel